

# EXHIBIT 14

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK  
Adv. Pro. Nos. 08-1789 (SMB) & 10-04469 (SMB)  
SECURITIES INVESTOR PROTECTION CORPORATION,  
Plaintiff-Applicant,  
-vs-  
BERNARD L. MADOFF INVESTMENT SECURITIES, LLC,  
Defendant.

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IN RE:  
BERNARD L. MADOFF,  
Debtor.

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IRVING H. PICARD, Trustee for the Liquidation of  
Bernard L. Madoff Investment Securities, LLC,  
Plaintiff,  
vs.  
CAROL L. KAMENSTEIN, individually and in her capacity  
as joint tenant, DAVID R. KAMENSTEIN, individually and  
in his capacity as joint tenant, SLOAN G. KAMENSTEIN and  
TRACY D. KAMENSTEIN,  
Defendants.

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DEPOSITION OF DAVID KAMENSTEIN  
VIDEOTAPED

Wednesday, February 22, 2017  
1:50 - 4:41 p.m.

444 West Railroad Avenue  
Suite 300  
West Palm Beach, Florida 33401

Reported By:  
Shirley D. King, RPR, FPR  
Notary Public, State of Florida  
West Palm Beach Office Job #1522945-D

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15

16 ALSO PRESENT:

17

18 CAROL KAMENSTEIN  
19 SLOAN KAMENSTEIN  
20 TRACY KAMENSTEIN  
21 MICHAEL HOLLANDER, VIDEOGRAPHER

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5 WITNESS: DIRECT CROSS REDIRECT RECROSS  
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CAROL KAMENSTEIN

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3 Deposition taken before Shirley D. King, Registered  
4 Professional Reporter and Notary Public in and for the  
5 State of Florida at Large, in the above cause.

6 - - -

7 THE VIDEOGRAPHER: We are now going on the  
8 video record. The time on the monitor, 1:50 p.m.

9 THE COURT REPORTER: Today is Wednesday, the  
10 22nd day of February, 2017. We here at 444 West  
11 Railroad Avenue, Suite 300, West Palm Beach,  
12 Florida, for the purpose of taking the video  
13 deposition of David Kamenstein, taken by the  
14 Plaintiff Trustee in Case No. 10-04469 (SMB) in the  
15 case of Irving H. Picard versus Carol L.  
16 Kamenstein, et al., which is filed in the Southern  
17 District of New York. The court reporter is  
18 Shirley King of U.S. Legal Support. The  
19 videographer is Michael Hollander of U.S. Legal  
20 Support. Would all counsel please state their  
21 appearance for the record.

22 MS. MARKEL: Tatiana Markel on behalf of the  
23 Trustee, Irving Picard.

24 MR. GENTILE: Dominic Gentile on behalf of the  
25 Trustee.

1 MS. CHAITMAN: Helen Davis Chaitman on behalf  
2 of the Witness.

3 Thereupon,

4 (CAROL KAMENSTEIN)

5 having been first duly sworn or affirmed, was examined  
6 and testified as follows:

7 THE WITNESS: Yes.

8 DIRECT EXAMINATION

9 BY MS. MARKEL:

10 Q. Mr. Kamenstein, you've previously heard me  
11 read Section 10 of the litigation protective order --

12 A. Yes.

13 Q. -- into the record. It governs confidential  
14 disclosures during your testimony. As long as you're  
15 aware of it, we can move on.

16 A. Yes, I am.

17 Q. Again, just quickly, a review. I'm going to  
18 ask you some questions. If you don't understand, please  
19 ask me to rephrase. If the answer is yes or no, please  
20 answer yes or no, without nodding or shaking your head,  
21 so that the court reporter can take it down. We should  
22 also let each other finish; you know, I will finish my  
23 question, I'll let you finish your answer, so that we're  
24 not talking over each other. And if you need a break at  
25 any time, please let us know. If there's a question

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1 pending, you have to finish answering that question, but  
2 otherwise we're happy to let you break.

3 A. Okay. Thank you.

4 Q. Before we begin, are you taking any medication  
5 that would impair your ability to testify today?

6 A. No.

7 Q. Okay. Did you take any steps to prepare for  
8 this deposition?

9 A. No.

10 Q. Did you speak or meet with anyone to prepare?

11 A. Only Helen.

12 Q. Did you review any documents to prepare for  
13 the deposition?

14 A. No.

15 Q. Please state your full name for the record.

16 A. David Kamenstein.

17 Q. And your address?

18 A. 1314 Breakers West Boulevard, West Palm Beach,  
19 Florida 33411.

20 Q. And what is your occupation?

21 A. Retired.

22 Q. And can you briefly recount your educational  
23 and employment history?

24 A. College graduate; from there I went into the  
25 family business.



1 Q. And what was the family business?

2 A. Kitchen products and pantry products.

3 Q. Like shelving or ...

4 A. No. Like teakettles --

5 Q. Okay.

6 A. -- and spice racks and --

7 Q. I see.

8 A. -- that type of thing.

9 Q. And how long were you in the family business?

10 A. Until 1992.

11 Q. So for most of your life?

12 A. All my working life --

13 Q. Okay.

14 A. -- was there.

15 Q. Okay. Thank you.

16 Have you ever had your deposition taken?

17 A. I don't think so, but I can't quite be sure.

18 Q. Okay. So I guess if you had had it taken, you

19 wouldn't remember what you testified about; safe to say.

20 A. I don't think I ever had a deposition taken.

21 MS. CHAITMAN: If you were being deposed, what

22 would you testify about?

23 BY MS. MARKEL:

24 Q. Have you ever had your -- have you ever had --

25 have you ever given testimony in court?

1 A. No.

2 Q. Okay. And were you ever interviewed in  
3 connection with the Madoff fraud?

4 A. No.

5 Q. And as I mentioned previously, I'm going to be  
6 using some terms like BLMIS, Madoff. They all refer to  
7 Bernard L. Madoff.

8 A. That's fine.

9 Q. When we talk about accounts, unless I say bank  
10 accounts, it's going to mean your BLMIS accounts.

11 A. Okay.

12 Q. Transfers just means deposits or withdrawals  
13 in and out of those BLMIS accounts.

14 A. Okay.

15 Q. When did you first hear about Bernie Madoff?

16 A. When we were introduced to him. That was  
17 1993, I believe.

18 Q. And who introduced you?

19 A. A man who was associated with our business.  
20 Pierre Schoenheimer.

21 Q. When you say associated with your business, do  
22 you mean the kitchen goods business?

23 A. Yes, um-hum.

24 Q. And he was -- what was his role in that  
25 business?

1 A. He was a director of our company.

2 Q. Okay. And why did you decide to make your  
3 BLMIS investment?

4 A. Well, because of everything he told us about  
5 Madoff's illustrious history and being a past president  
6 of one of the stock exchanges and, you know, what a safe  
7 place it was to put our money and how successful he was.  
8 Those were the main reasons.

9 Q. Was he himself invested?

10 A. I don't know. I don't know.

11 Q. And did you know other people who were  
12 invested?

13 A. No.

14 Q. Did you meet Bernie?

15 A. Yes. Prior to being allowed to invest, we had  
16 to go up there to his office and meet him.

17 Q. What did you think?

18 A. Well, I guess we were impressed. We invested  
19 and -- that was an unlucky day.

20 Q. Did you receive any materials when you --  
21 before you invested --

22 A. No.

23 Q. -- when you met with him?

24 A. Not that I remember.

25 Q. And once you decided to open an account, do

1 you remember who you communicated with regarding the  
2 account?

3 A. No. No.

4 Q. Does Jodi Crupi ring a bell?

5 A. I communicated with her when our accounts were  
6 open --

7 Q. Right.

8 A. -- you know, asking for withdrawals or that  
9 type of thing, but I didn't meet her or -- I don't think  
10 I've ever spoken to her on the phone.

11 Q. On the phone?

12 A. I don't believe so.

13 Q. And could you please walk us through the  
14 history of the BLMIS accounts, as far as you can  
15 remember when you opened them and, you know, starting  
16 with the first one?

17 A. I believe we opened the account in '93. And I  
18 guess we added to it, you know, in the ensuing years.  
19 And that's pretty much it.

20 Q. And was this the 1CM247 account for David and  
21 Carol joint tenancy with right of survivorship?

22 A. I'm not familiar with the numbers. But, you  
23 know, whatever the record shows that I put the initial  
24 investment in I'm sure is correct.

25 Q. And then at some point, did you split that

1 account into two personal accounts --

2 A. Yes.

3 Q. -- for you and for Carol?

4 A. Right.

5 Q. Okay. And that would be 1CM913 and 914?

6 A. If that's what the record shows, I'm sure it's  
7 right.

8 MS. MARKEL: Like to enter this as Exhibit 1.

9 (Exhibit No. 1 was marked for identification.)

10 BY MS. MARKEL:

11 Q. Please read the document, Mr. Kamenstein.

12 A. Out loud for the record?

13 Q. Yeah, read it aloud, sure.

14 A. "Dear Jodi, for estate planning purposes, my  
15 wife and I would like to have our account number  
16 1-CM247-3-0, David R. Kamenstein and Carol Kamenstein  
17 J/TWROS, split into two equal accounts; one in the name  
18 of David R. Kamenstein and one in the name of Carol  
19 Kamenstein. We would appreciate if this could be done  
20 prior to January 1st, 2005. Please advise me that you  
21 have received this request. Best wishes to you for a  
22 Merry Christmas and healthy happy New York. Very truly  
23 yours. Signed by me and Carol."

24 Q. And does this comport with your recollection  
25 of what happened?

1 A. Probably, yeah. I would say so.

2 Q. And did you also open an account for your  
3 children?

4 A. Yes.

5 Q. Okay. And was it in the name of your  
6 children's trusts?

7 A. Either that or my children's name, I'm sure.

8 MS. MARKEL: Can we have this marked as  
9 Exhibit 2.

10 (Exhibit No. 2 was marked for identification.)

11 BY MS. MARKEL:

12 Q. So these are the account-opening documents for  
13 Account 1CM295. You'll see that they're signed by you  
14 as the Trustee, correct?

15 A. Yeah.

16 Q. Okay. And so this --

17 MS. MARKEL: I'm going to enter this as  
18 Exhibit 3.

19 (Exhibit No. 3 was marked for identification.)

20 BY MS. MARKEL:

21 Q. If you could take a look at that document, and  
22 then also this page in particular.

23 A. Which page?

24 Q. The one that you're looking at, page 2.

25 A. Okay. Um-hum.

1 Q. You'll see that it's 1984 --

2 A. Um-hum.

3 Q. -- Tracy Kamenstein Irrevocable Trust, right?

4 A. Um-hum.

5 Q. So does that refresh your recollection about  
6 the trust that was created?

7 A. No, not really.

8 Q. Okay.

9 A. Not really.

10 Q. Do you remember creating these trusts?

11 A. Not specifically, but obviously we did and...

12 Q. Did you manage -- did you manage Sloan and  
13 Tracy's account without reference to the trust document?

14 A. Yes.

15 Q. Okay. I think that will make things easier.

16 MS. MARKEL: Keep that document handy. And  
17 let's enter this as Exhibit 4.

18 (Exhibit No. 4 was marked for identification.)

19 MS. CHAITMAN: You'll try to find me 2 or  
20 should I dig it out of the other --

21 MR. GENTILE: Two is what I'm trying to find.

22 MS. CHAITMAN: Okay. All right.

23 MS. MARKEL: I'm going to continue.

24 MS. CHAITMAN: Yeah.

25 MR. GENTILE: That's 2.

1 MS. CHAITMAN: Okay.

2 BY MS. MARKEL:

3 Q. If you could just -- where was the previous  
4 trust? Is this the previous trust document?

5 A. This one is.

6 Q. Yeah. Yeah. I just want you to keep it handy  
7 just for the next question.

8 A. Okay. The previous one?

9 Q. Yeah, just these two.

10 A. Okay.

11 Q. So you'll see this is a very similar  
12 document --

13 A. Right.

14 Q. -- but on behalf of Sloan, correct?

15 A. Correct.

16 Q. These two trusts were associated with the  
17 BLMIS account. And in one of them -- so for Sloan's  
18 account, Carol signed the account-opening documents as  
19 Trustee, and for Tracy's account it was you who signed  
20 the account-opening documents as Trustee.

21 But based on your prior testimony, is it  
22 accurate to say, that regardless of these documents, you  
23 were the person who managed all of these accounts?

24 A. Yes.

25 Q. Thank you.



1 MS. MARKEL: You can give them to the court  
2 reporter.

3 BY MS. MARKEL:

4 Q. And then would it be accurate to say that  
5 1CM295, which is in Sloan and Tracy's name, was then  
6 also split off into their personal accounts, 59 --  
7 1CM596 and 1CM597?

8 A. I don't recall that specifically, but it  
9 sounds -- sounds right.

10 MS. MARKEL: Bear with us for one moment.

11 So I'm going to mark all of this as Exhibit 5.

12 (Exhibit No. 5 was marked for identification.)

13 BY MS. MARKEL:

14 Q. Just this is -- if you take a look, this is  
15 the account-opening document for Tracy Kamenstein 1CM596  
16 and then for Sloan Kamenstein 1CM597. And then the last  
17 page is a note that appeared in both of their account  
18 documents. If you could read that, for the record?

19 A. "Bernie, this account opened on 9/7/99 with  
20 \$1,782,332 to close account of Tracy and Sloan  
21 Kamenstein joint WROS. 50 percent of equity balance  
22 in -- something. I can't read that -- original account  
23 to each. Please sign, by somebody."

24 Q. So having read that, does that -- does that  
25 comport with your recollection that there was an account

1 that was divided equally --

2 A. I'm sure there was, yeah.

3 Q. -- into Sloan's and Tracy's accounts?

4 A. For sure.

5 Q. Okay.

6 MS. MARKEL: You can give that to the court  
7 reporter.

8 MS. CHAITMAN: Each of these is a two-page  
9 document, right?

10 MR. GENTILE: Yes.

11 MS. CHAITMAN: Okay. So you just gave me an  
12 extra one.

13 MR. GENTILE: Oh, sorry.

14 MS. CHAITMAN: No problem.

15 BY MS. MARKEL:

16 Q. Over the course of all of these accounts that  
17 you maintained with BLMIS, what bank accounts did you --  
18 did you op -- or not open, but did you have during that  
19 time?

20 A. Well, I think, as was mentioned before, it  
21 looked like we started out with First Union Bank. And  
22 then I think they were purchased by Wachovia, I believe.

23 Q. And other than the First Union and Wachovia  
24 bank accounts, were there any others that were ever  
25 associated with your BLMIS accounts?

1 A. I don't believe so.

2 Q. And the methods of the deposits and  
3 withdrawals in and out of the BLMIS accounts, were they  
4 mostly checks and/or wire transfers or were there --

5 A. Checks? I would assume so. I don't know what  
6 else it would have been besides one or the other.

7 Q. But you -- do you recall writing checks,  
8 receiving checks and also wiring money in and out of  
9 your BLMIS accounts?

10 A. I'm -- I certainly recall receiving wires and  
11 checks, in some cases.

12 Q. And what about origin -- making?

13 A. I don't know how deposits were made --

14 Q. Okay. Okay.

15 A. -- directly.

16 Q. I don't know is a perfectly fine answer.

17 A. Right.

18 Q. Would you direct the withdrawals from all of  
19 the four BLMIS accounts to be deposited into the same  
20 bank account?

21 A. You mean, if I asked for a withdrawal, would I  
22 tell them to put it all into one account, wire it all to  
23 one account?

24 I don't recall any specific instruction for  
25 that, other than what my email or letter to Madoff said.

1 Q. Okay.

2 A. If it was in there, then I did; if it wasn't,  
3 then I didn't.

4 (Exhibit No. 6 was marked for identification.)

5 BY MS. MARKEL:

6 Q. So take a look at Exhibit 6.

7 A. Okay.

8 Q. These are all March 21st, 2005 checks, correct

9 --

10 A. Um-hum.

11 Q. -- to you, Carol, Tracy and Sloan?

12 A. Um-hum.

13 Q. Just say yes for the record, please.

14 A. Yes. I'm sorry.

15 Q. And if you could -- if you could turn all of  
16 them to their second page, which is the stamped canceled  
17 check page, this is an example of the question that I  
18 previously asked, which is, there would be a request for  
19 a withdrawal from all four accounts, but then they would  
20 all go into the same bank account. Let's say this one's  
21 at Wachovia.

22 A. Um-hum.

23 Q. Can you explain the process for why you  
24 withdrew checks from their accounts in such a manner?

25 A. Well, the money was probably needed by my wife

1 and myself. So even though -- I mean, I borrowed from  
2 the accounts of Tracy and Sloan, it went into our  
3 account.

4 Q. Okay. So would it be accurate to say that all  
5 of these four accounts, other than having the formality  
6 of having a different account number, were all treated  
7 as one big account at BLMIS that you would withdraw from  
8 and deposit into, or would there be some differences in  
9 how you would treat the four accounts?

10 A. Now, in this case, one could say that it was  
11 all as one account. I don't know if that was the case,  
12 you know, with every withdrawal that we requested, that  
13 they would all go into one account, or when we got it  
14 all, we put money into the other accounts; I don't  
15 recall.

16 Q. But in terms --

17 A. It probably happened both ways.

18 Q. Okay. Over the life of your investment, what  
19 type of documents would you receive from BLMIS?

20 A. We got monthly statements, and then we'd get  
21 these slips, these, I guess, transaction slips.

22 Q. And then?

23 A. I don't think we got anything other than that.

24 Q. On a monthly basis?

25 A. On a monthly basis, we got a statement. And

1 then whenever, I guess, there were transactions, we  
2 would get sometimes transactions. And that was random.

3 Q. It didn't -- it wouldn't come together with  
4 the checks -- I'm sorry -- with the monthly statements?

5 A. No, I don't think so.

6 Q. Okay. And what did you do with these  
7 documents when you received them?

8 A. I opened them and basically just filed them;  
9 and some I filed, some I just threw out.

10 Q. Would you give them to your accountant?

11 A. No.

12 Q. So you filed -- when you say filed them, do  
13 you mean filed them in your own personal filing drawer?

14 A. Yeah, some of them I saved them and put it in  
15 my own drawer -- our own file, file drawer; and the  
16 others I just threw out.

17 Q. And did you turn those documents over to your  
18 counsel in connection with this proceeding?

19 A. No. I gave them -- all I had saved, I gave to  
20 Helen.

21 Q. That was my question.

22 A. She asked for them. Yeah.

23 Q. So everything that you would file away over  
24 the course of your investments with BLMIS you handed  
25 over to Helen?

1 A. Anything I saved. The rest, old stuff, and  
2 threw out.

3 The accountant we gave the yearend. Whenever  
4 Madoff sent us the tax form, that I sent to the  
5 accountant.

6 Q. So the tax forms went to the accountant?

7 A. So he could do our taxes, right. Right.

8 Q. And who was the accountant during your  
9 investment with BLMIS?

10 A. We had two. Our original accountant passed  
11 away. Got in a car accident, became incapacitated. And  
12 then Regen is who we have here.

13 Q. And what was the name of the one who passed  
14 away?

15 A. Bach, Harry Bach.

16 Q. Harry Bach. And do you remember when you  
17 changed from Harry Bach to Mr. Regen?

18 A. Not specifically. I would just guess 10, 12  
19 years ago, but I'm not exactly sure.

20 Q. And does Mr. Regen have copies of documents in  
21 connection with your BLMIS investments?

22 A. Not that I'm aware of, other than what we sent  
23 him for tax -- to prepare our taxes.

24 Q. Over the course of your course -- over the  
25 course of your -- over the course of your investment

1 with BLMIS, you -- in various letters, you seem to refer  
2 to bookkeepers that you've had throughout the years.

3 A. Right.

4 MS. MARKEL: This is Exhibit 7.

5 (Exhibit No. 7 was marked for identification.)

6 BY MS. MARKEL:

7 Q. What's been marked as Exhibit 7 are various  
8 copies of letters --

9 A. Right.

10 Q. -- sent to BLMIS throughout the years.

11 A. Right.

12 Q. One reference to bookkeeper Barbara Clarke.

13 A. Right.

14 Q. One Natalie Rydlewski?

15 A. Um-hum.

16 Q. And Stephen Chapin?

17 A. Um-hum. He wasn't a bookkeeper.

18 Q. He wasn't a bookkeeper. Who was Stephen  
19 Chapin?

20 A. He worked for Pierre Schoenheimer -- he was  
21 associated with Pierre Schoenheimer -- and for a while  
22 they managed our money.

23 Q. What was their involvement in your --

24 A. Well, they're the ones that introduced us to  
25 Madoff.



1 Q. I guess my question is what was their  
2 day-to-day involvement with your BLMIS accounts?

3 A. I don't know that they had a day-to-day  
4 involvement.

5 Q. Is there a reason why you would copy Stephen  
6 Chapin on your correspondence to Madoff?

7 A. He -- the only reason would be, you know,  
8 he -- he sometimes would call and tell me what Madoff,  
9 you know, did -- how he did for the previous month, et  
10 cetera, et cetera. But I can't see a reason why  
11 specifically here I would -- and he may have at that  
12 point been handling our money, you know, what -- kind of  
13 watching over where we invested. So maybe at that point  
14 in time he was and I copied him.

15 Q. Okay. And so between Barbara Clarke and  
16 Natalie Rydlewski and Kathy Foster --

17 A. Right. They were all bookkeepers.

18 Q. They were all bookkeepers.

19 A. Yes.

20 Q. And were they bookkeepers for you personally  
21 or for your business?

22 A. They did both.

23 Q. Both. Were they employed by your business?

24 A. Yes, um-hum.

25 Q. And would they maintain documents, deposits,

1 withdrawals or any information having to do with your  
2 BLMIS account?

3 A. Well, they would keep the record of whatever  
4 was, you know, received.

5 Q. And where were those records kept?

6 A. In the office that we had.

7 Q. Okay. Were those records turned over --

8 A. Everything.

9 Q. -- to Ms. Chaitman?

10 A. Everything that was left of them I got all  
11 that together and gave it to Helen.

12 MS. MARKEL: Have this marked as Exhibit 8.

13 (Exhibit No. 8 was marked for identification.)

14 BY MS. MARKEL:

15 Q. I'm showing you two documents; one that's in  
16 our BLMIS account records and the other one that you --  
17 that your counsel produced to us on your behalf.

18 Can you look at the two front pages side by  
19 side?

20 A. Um-hum.

21 Q. Do they appear to be the same document, with  
22 the difference is one is signed and the other one is  
23 unsigned?

24 A. Yeah.

25 Q. And is there -- all of the documents that we

1 received that look like this that you've produced, they  
2 all are unsigned, all of the documents that we have in  
3 our BLMIS account records are -- appear to be the same  
4 version, but signed, much like what you're reviewing  
5 here.

6 A. Um-hum.

7 Q. So would you keep -- were these kept in a  
8 computer? Did you not -- you know, how did you keep  
9 these documents?

10 A. In a computer.

11 Q. In the computer?

12 A. Yeah.

13 Q. Okay. So that is the reason why, you know,  
14 when you would send it to Madoff, you would print it out  
15 and sign it --

16 A. Right.

17 Q. -- and the version given to your counsel was  
18 the unsigned version you kept as a copy for yourself; is  
19 that correct?

20 A. Yes.

21 Q. Okay.

22 MS. MARKEL: Have this marked as Exhibit 9,  
23 please.

24 (Exhibit No. 9 was marked for identification.)

25

1 BY MS. MARKEL:

2 Q. Do you recognize this document?

3 A. Not specifically.

4 Q. Okay. Can you go to the second page 4?

5 A. Sure. Second page?

6 Q. Second page 4. Unfortunately, instead of 3,  
7 4, there are two 4s as a --

8 A. Okay.

9 Q. So the second page 4 -- here, I'll help you  
10 out. That's it.

11 A. Oh, I see okay. Okay.

12 Q. Is that your signature there?

13 A. Absolutely.

14 Q. Okay. And go to the previous page. This is  
15 the claim that was filed on your behalf.

16 A. Okay.

17 Q. And in the previous page it lists William  
18 Regen as the accountant that helped you prepare this  
19 document.

20 A. Okay.

21 Q. And this is the person that you have just  
22 testified is your regular accountant?

23 A. Yes.

24 Q. Okay. Did you provide Mr. Regen any documents  
25 to help him prepare the claim?

1 A. No. He just had the tax -- at least I don't  
2 recall that I did. I believe he just had the yearend  
3 tax --

4 Q. So he had all the documents sufficient to  
5 prepare this claim in his possession?

6 A. I would imagine he did it from the yearend  
7 report, which we always gave him.

8 Q. And the documents that are in the back there,  
9 do those look like the types of documents that you were  
10 referring to as the transaction reports earlier that you  
11 would receive from BLMIS?

12 A. Yes, they do, um-hum.

13 Q. And if you'd just back up a little bit, right  
14 after --

15 A. In the back here?

16 Q. Right here. Right here.

17 A. Right.

18 Q. Does that look like the monthly statement that  
19 you would receive?

20 A. Yes.

21 Q. Okay.

22 MS. MARKEL: Okay. You can hand that document  
23 back. Exhibit 10.

24 (Exhibit No. 10 was marked for  
25 identification.)

1 BY MS. MARKEL:

2 Q. What you have there marked as Exhibit 10 is  
3 the answer and affirmative defenses to the Trustee's  
4 complaint. If you could turn to page 23, paragraph 16,  
5 please.

6 A. Um-hum.

7 Q. And could you read that aloud, please?

8 A. "The defendants are entitled to setoff,  
9 recoupment and/or equitable adjustment because each year  
10 defendants were required to pay taxes on the fictitious  
11 profits reported on, among other things, IRS form 1099  
12 and other information reported by BLMIS or Madoff to the  
13 Internal Revenue Service, State and/or local  
14 governmental taxing authorities."

15 Q. How much did you pay the IRS during the years  
16 that you had your BLMIS account?

17 A. I have no idea.

18 Q. Would Mr. Regen have this information?

19 A. I don't know if he filed the taxes; he must.

20 Q. Okay. Are there any other documents, other  
21 than the documents that are in Mr. Regen's possession,  
22 that you would rely on to show how much taxes you've  
23 paid?

24 A. No.

25 Q. Could you turn to page 24, paragraph 27.

1 Could you read that aloud, please?

2 A. Yes. "The Trustee's claims are barred in  
3 whole or in part for failure to properly credit  
4 inter-account transfers, profit withdrawals and other  
5 adjustments."

6 Q. Are you aware of any profit withdrawals  
7 associated with your BLMIS accounts?

8 A. Withdrawals, but I don't know profit or  
9 principal; I don't know.

10 Q. Are you aware of any other adjustments to  
11 which this paragraph refers?

12 A. No.

13 Q. And if you could turn to page 25, paragraph  
14 37.

15 A. Okay.

16 Q. And can you read that aloud, please?

17 A. Okay. "The withdrawals that the Trustee seeks  
18 to recover were legally compelled under state and  
19 federal securities laws."

20 Q. And which state or federal securities laws  
21 compelled the withdrawals from your account?

22 A. I do not know.

23 Q. And can you turn to paragraph -- page 26,  
24 paragraph 46?

25 A. Forty-six?

1 Q. Uh-huh.

2 A. "The Trustee's claims are barred in whole or  
3 in part for failure to properly credit defendants with  
4 all of defendant's deposits."

5 MS. MARKEL: I'm going to mark this as  
6 Exhibit 11.

7 (Exhibit No. 11 was marked for  
8 identification.)

9 BY MS. MARKEL:

10 Q. Exhibit 11 contains all of the deposits in the  
11 column marked deposits for all of the four accounts at  
12 BLMIS.

13 A. Um-hum.

14 Q. Are there any deposits that you made that are  
15 not credited on Exhibit B -- or what's been marked as  
16 Exhibit 11 here?

17 A. I wouldn't be able to recall.

18 Q. Can you go back on the previous document,  
19 Exhibit 10, can you go back to paragraph 23?

20 A. Page? Paragraph 23.

21 Q. Um-hum.

22 A. The Trustee relying.

23 Q. Paragraph 20 -- sorry. Page 23, paragraph 20.

24 A. Okay. "The Trustee has fraudulently  
25 calculated defendant's liability by charging defendants



1 with withdrawals that the Trustee has no proof were  
2 taken."

3 Q. Now looking back at Exhibit 11, or Exhibit  
4 B --

5 A. Right.

6 Q. -- are any of the withdrawals -- do any of the  
7 withdrawals appear fraudulent or as though you did not  
8 make them?

9 A. I would have no recollection.

10 Q. So in terms of the deposits that I asked you  
11 about in my previous question --

12 A. Yes.

13 Q. -- and the withdrawals --

14 A. Right.

15 Q. -- are there any documents that would support  
16 a deposit that doesn't show up on Exhibit B or a  
17 withdrawal that you didn't actually make?

18 A. Not in my possession.

19 Q. You can keep Exhibit B out. But this you can  
20 put away.

21 MS. MARKEL: This is Exhibit 12.

22 (Exhibit No. 12 was marked for  
23 identification.)

24 BY MS. MARKEL:

25 Q. You've been handed what's marked Exhibit 12.

1 It is the amended interrogatory responses.

2 Have you -- well, give it a minute and review  
3 the document.

4 A. Okay.

5 Q. Are you familiar with the document? Have you  
6 seen it before?

7 A. I must've, because I think I signed it.

8 Q. Well, take a look. Take a look. After that  
9 page. Yeah, it's afterwards?

10 A. Okay.

11 Q. And then the next one.

12 A. Carol, David, right, okay.

13 Q. So you did sign this document?

14 A. Both.

15 Q. And can you open to the page where you signed  
16 the document?

17 A. Um-hum.

18 Q. And can you read above your signature?

19 A. Yes. "I, David R. Kamenstein, declare  
20 pursuant to 28 U.S.C. 1746 that I have read the  
21 foregoing amended interrogatory answers and that the  
22 responses contained therein are true and correct to the  
23 best of my knowledge, information and belief. I  
24 understand that if any of these responses is found to be  
25 willfully false, I am subject to punishment."

1 Q. Thank you.

2 Did you take any steps to confirm that the  
3 responses that are contained within these interrogatory  
4 responses are correct?

5 A. I must've read them at the time I signed it  
6 and figured they were correct or I wouldn't have signed  
7 it.

8 Q. If you could read question or Interrogatory 2  
9 and then the answer to that on page 4?

10 A. Two. Okay. The answer, the withdrawals were  
11 taken, is that it?

12 Q. First read the question, No. 2.

13 A. "Identify the reasons for each transfer."

14 Q. And now the answer.

15 A. "Withdrawals were taken to pay applicable  
16 taxes on reported short-term capital gains in the  
17 account and for living expenses of the responding  
18 parties."

19 Q. And we've already discussed this, but just for  
20 the record again, do you have records of the applicable  
21 taxes that were paid on these short-term gains?

22 A. No. I don't.

23 Q. And would your accountant Mr. Regen have  
24 records relating to that question?

25 A. Possibly.

1 Q. Would anyone else other than him?

2 A. Not that I know of.

3 Q. If you could go to page 6. And on page 6 you  
4 have Question No. 12. And in bold Answer A, could you  
5 read that answer for the record, please?

6 A. The Answer A: "The defense concerning payment  
7 of capital gains taxes is based upon responding party's  
8 testimony as to the payment of taxes that the applicable  
9 tax rates for each year of the account and reported  
10 income as reflected in Madoff's statement which are in  
11 the Trustee's possession."

12 Q. And could you explain what testimony this  
13 answer is based on?

14 A. I think it was based on the advice of Helen.

15 Q. Okay. So when it says that the defense  
16 concerning payment of capital gains is based upon  
17 responding party's testimony, so --

18 A. Okay.

19 Q. -- you would be the responding party --

20 A. Okay.

21 Q. -- in that situation.

22 A. Okay.

23 Q. Did you give testimony as to the payment of  
24 capital gains taxes?

25 A. Did I give testimony?

1 Q. Um-hum.

2 A. Not that I remember.

3 Q. And are you aware of the applicable tax rates  
4 for each year the account was open?

5 A. No.

6 Q. Do you recall the amount of the taxable gains  
7 that you --

8 A. No, I don't.

9 Q. Okay. So now let's turn to page 5.

10 At the end of page 5, you'll see Question  
11 No. 9.

12 A. Yes.

13 Q. And then you can turn to the top of page 6.

14 A. Okay.

15 Q. And if you could read the answer to that  
16 question aloud, please?

17 A. "Responding parties admit the deposits and  
18 withdrawals reflected on Exhibit B to the complaint for  
19 the period from December 11th, 2006 through  
20 December 11th, 2008. The Trustee hasn't a right to any  
21 bank information covering this period."

22 Q. Is there a reason that you admitted only the  
23 transfers between December 11th, 2006 and 2008?

24 A. I guess maybe these were the most recent and  
25 freshest in my mind.

1 Q. Is there anything that occurred prior to  
2 December 11th, 2006 that would make you believe that  
3 those transfers were inaccurate?

4 A. Not that I can recall.

5 Q. Did you ever object to an amount that BLMIS  
6 would pay or credit to your account over the course of  
7 your investment with...

8 A. Not that I can recall.

9 Q. And if you look at Exhibit B, which is marked  
10 Exhibit 11 in these proceedings, and if you look through  
11 the transfers that are earlier on, and then again those  
12 transfers that happened between December 11th, 2006 and  
13 December 11th, 2008, if you could see if there's  
14 anything about the earlier transfers that appears  
15 inaccurate to you?

16 A. I have no knowledge of whether -- their  
17 accuracy. I wouldn't remember.

18 Q. So what we're going to do now then is we're  
19 actually going to go through the transfers that --

20 A. Okay.

21 Q. -- went in and out of these accounts, to  
22 refresh your recollection.

23 The process might take a little bit of time  
24 because there's four accounts. But once we get through  
25 the process, we will probably be done.

1 A. Okay.

2 Q. Now, if -- I think it's -- you know, you can't  
3 look at Exhibit B from your memory --

4 A. Right.

5 Q. -- and say this is exactly what happened.

6 A. Right.

7 Q. And I think that's going to be the easiest way  
8 for us to refresh your recollection.

9 A. Okay.

10 Q. Okay.

11 A. Fine.

12 MS. MARKEL: I think the easiest thing would  
13 be, if we actually un -- took this piece out.

14 I think you would see this is Tracy and this  
15 is Sloan and this is David and this is Carol.

16 THE WITNESS: Okay.

17 BY MS. MARKEL:

18 Q. And perhaps what would be best, if we could  
19 give you a pen, so that once we've gone through a  
20 transfer, you can mark it off and you won't have to come  
21 back to it. I think it'll be easier for you to keep  
22 track that way.

23 A. Fine.

24 MS. CHAITMAN: You're just going to go through  
25 each account separately?

1 MS. MARKEL: No, together.

2 MS. CHAITMAN: You're just going to go  
3 chronologically?

4 MS. MARKEL: Correct. If you could mark that  
5 13.

6 (Exhibit No. 13 was marked for  
7 identification.)

8 BY MS. MARKEL:

9 Q. I'm handing you what's been marked Exhibit 13.

10 A. Okay.

11 Q. And if you could read in the middle of that?

12 A. Um-hum.

13 Q. If you could read aloud concerning the deposit  
14 to Tracy?

15 A. This one starting, also, or -- is this the  
16 part here?

17 Q. The part starting also.

18 A. "Also, per your conversation with Stephen,  
19 please wire-transfer \$250,000 from Tracy Kamenstein's  
20 Madoff Account No. 1-CM596-3-0, the same First Union  
21 account as indicated above."

22 Q. Now, if you could turn next to -- turn to the  
23 next document?

24 A. That's a check.

25 Q. It's a check.



1 A. Um-hum.

2 Q. And is that a check to Tracy Kamenstein in the  
3 amount of \$250,000?

4 A. Yes.

5 Q. Okay. And can you look on Tracy's account for  
6 one six two thousand?

7 A. One six --

8 Q. It's the fourth line down.

9 A. Is this Tracy's? You wouldn't happen to have  
10 a magnifying glass, would you?

11 MS. MARKEL: I think we do.

12 THE WITNESS: Sorry.

13 Oh, I see it. Okay.

14 MS. MARKEL: I think we have a magnifying -- I  
15 think it will be easier.

16 THE WITNESS: Okay. I see it. Should I make  
17 a mark by it?

18 MS. MARKEL: Yes. Here you go, sir.

19 THE WITNESS: Thanks. That'll help.

20 BY MS. MARKEL

21 Q. I'm going to give you -- the problem is that  
22 the blown-up documents that we created to try to help  
23 with this process are very bad quality. And in some  
24 ways this is better, but let me know...

25 A. I think I -- this is good. I think this

1 should work.

2 Q. Okay.

3 A. -- hopefully. Hopefully, this will work.

4 Q. Thank you. I appreciate it.

5 A. These are all going to be Tracy?

6 Q. No, no. They're not all going to be. We're  
7 just going in chronological order.

8 A. Okay.

9 Q. So the check -- the canceled check that you  
10 just reviewed corresponds to what's on Exhibit B; is  
11 that correct?

12 A. Cash withdrawal, yes.

13 Q. Go to four seven. And you can hand that  
14 document to --

15 THE WITNESS: Okay.

16 MS. MARKEL: Hold on one second. It's  
17 Document No. 7. We're going to mark this document  
18 No. 14.

19 (Exhibit No. 14 was marked for  
20 identification.)

21 BY MS. MARKEL:

22 Q. Now, the document -- the written withdrawal is  
23 a document that is written by you to BLMIS requesting  
24 three -- requesting three check wires for three  
25 different amounts, totaling \$1,786,761; is that correct?

1 A. Yes.

2 Q. And each one -- and the one for Tracy is  
3 298,547?

4 A. Right.

5 Q. And the one for Sloan is 279,486?

6 A. Right.

7 Q. And the one for Carol and David Kamenstein JT  
8 WROS is for 1,208,728?

9 A. Yes.

10 Q. And then that -- again, the entire transfer is  
11 the \$1,786,761?

12 A. Yes.

13 Q. And if you could look on the second page of  
14 that same document?

15 A. Um-hum.

16 Q. And if you could see, a few lines down?

17 A. Okay. Right.

18 Q. Do you see that same number --

19 A. Yes.

20 Q. -- in the wire transfer?

21 A. Yes, I do.

22 Q. And could you read the description that's  
23 associated with that?

24 A. Description. "Fed wire debit via First Union  
25 JAX/063000021, account, David and Carol Kamenstein, Palm

1 Beach, Florida 33480, reference, Camon DC/time 09:41."

2 Q. Okay. That's enough. So that amount in the  
3 wire transfer purports to the request.

4 And now, if you look at -- if you would look  
5 at Tracy's account, do you see the number 298,547?

6 A. Yes.

7 Q. And then if you look at Sloan's account,  
8 which -- just check it off.

9 A. Okay. And then Sloan's account.

10 Q. And then Sloan's is right next to it. And  
11 then for 472000 --

12 A. I see that.

13 Q. -- 279,486?

14 A. Right. I see that.

15 Q. So the amounts in Exhibit B correspond to the  
16 amount requested, as well as the amount of the wire  
17 transfer; is that correct?

18 A. For Sloan and Tracy, yes.

19 Q. Thank you very much. Okay.

20 MS. CHAITMAN: So in my packet of Exhibit B,  
21 it doesn't have the joint account for this period.  
22 Was it missing from here or do you have it  
23 someplace else?

24 MS. MARKEL: There is. There is a joint  
25 account from this period. It's -- it's a

1 predecessor account.

2 MS. CHAITMAN: Right.

3 MS. MARKEL: And it's not one of the accounts  
4 that is currently being sued on, I guess you would  
5 say.

6 MS. CHAITMAN: Okay.

7 MS. MARKEL: So in order to keep this as short  
8 as possible, we're just concentrating on the  
9 accounts that were open in 2008.

10 MS. CHAITMAN: Okay. But if that's an extra  
11 copy, can I have that?

12 MS. MARKEL: Absolutely.

13 MS. CHAITMAN: Okay. Thanks.

14 BY MS. MARKEL:

15 Q. The next is 9/5/2000. Can you look at Tracy's  
16 accounts?

17 A. Um-hum.

18 Q. And look at the number that corresponds to  
19 9/5/2000.

20 MS. MARKEL: Exhibit 15.

21 (Exhibit No. 15 was marked for  
22 identification.)

23 THE WITNESS: There was a deposit?

24 BY MS. MARKEL:

25 Q. Um-hum.

1 A. Right.

2 MS. CHAITMAN: This is a new exhibit?

3 MR. GENTILE: Exhibit 15.

4 THE WITNESS: 65803 -- 801.

5 MS. MARKEL: 801.

6 THE WITNESS: 801, okay.

7 BY MS. MARKEL:

8 Q. And I'm handing you what's marked as  
9 Exhibit 15.

10 A. Okay.

11 Q. Do you see a wire transfer --

12 A. Yes.

13 Q. -- that corresponds to that amount?

14 A. Yes.

15 Q. And if you could look at Sloan's account next  
16 to it, just check that off.

17 A. Ninety-five. Okay. Sloan's account.

18 Q. Um-hum.

19 A. Same date. 77716.

20 Q. That's right. And do you see an amount that  
21 corresponds to that on this bank statement?

22 A. Yes.

23 Q. Okay. So for the two check wires into Sloan's  
24 and Tracy's account, the bank statement corresponds to  
25 Exhibit B; is that correct?

1 A. Yes.

2 Q. Thank you.

3 So the next is 10/20/2000.

4 A. 5872 deposit.

5 Q. 5872, that's right. For Tracy?

6 A. Right.

7 Q. And --

8 A. 5872.

9 Q. And if you could take a look --

10 MS. MARKEL: Let me mark the document. Get it  
11 marked as Exhibit 16.

12 (Exhibit No. 16 was marked for  
13 identification.)

14 BY MS. MARKEL:

15 Q. And take a look at Exhibit 16. Do you see the  
16 number 5872 in the bank document?

17 A. Yes.

18 Q. And can you read what it says next to that?

19 A. "Fed wire credit via NSBC Bank  
20 USA/021001088B/01984 Tracy Dara Kamen 5830 OC Boulevard,  
21 Palm Beach, Florida 33480, 4815, reference Chase  
22 NYC/Center/BBK equals Bernard L. Madoff, New York, New  
23 York 10022/4834/AC-0001."

24 Q. Okay. That's enough. And can you take a  
25 look -- just keep that document handy. And now take a

1 look at 10/20/2000 for Sloan's account.

2 A. 10/20/2000.

3 Q. Um-hum.

4 A. There was a -- a deposit, 12,921.

5 Q. That's right.

6 A. Yes.

7 Q. That's right. And can you look on the bank  
8 statement? Do you see that amount on the bank  
9 statement?

10 MS. CHAITMAN: Exhibit 16?

11 MS. MARKEL: Exhibit 16.

12 THE WITNESS: 12,121.

13 MS. CHAITMAN: I don't think it's on this  
14 statement.

15 THE WITNESS: There was one, 12,920.95.

16 BY MS. MARKEL:

17 Q. That would be it.

18 A. That's close enough.

19 Q. That would be it.

20 MS. CHAITMAN: Which statement is that? I  
21 don't --

22 MS. MARKEL: Sorry. This is Exhibit 16.

23 MS. CHAITMAN: Exhibit 16. Oh, I put the  
24 wrong number on it. Okay. So hold on. Let me  
25 just get this.



1 Dominic, maybe you didn't give me that one. I  
2 don't have that one. This is the one I don't have.

3 MR. GENTILE: I will give you --

4 THE WITNESS: Have these all been checked out  
5 already or --

6 MS. CHAITMAN: Well, they don't have anything  
7 before 2000.

8 THE WITNESS: I see. So we have to do each --

9 MS. CHAITMAN: We have to verify it. But they  
10 don't have the documents before 2000.

11 BY MS. MARKEL:

12 Q. And just the last question on that exhibit.

13 A. Okay.

14 Q. Without reading the entire description, can  
15 you look at the description and verify that that was a  
16 deposit --

17 A. Yeah.

18 Q. -- to Sloan Kamenstein?

19 A. Yes.

20 Q. Okay. 11/14/2001.

21 MS. MARKEL: Mark them as Exhibit 17, please.

22 (Exhibit No. 17 was marked for  
23 identification.)

24 BY MS. MARKEL:

25 Q. And can you verify that these are two checks,

1 one to Sloan Kamenstein for 87,000 and one to Tracy  
2 Kamenstein for 87,000?

3 A. Um-hum. Eighty-seven, yes, for Sloan;  
4 eighty-seven for Tracy.

5 MS. CHAITMAN: David, you just need to look at  
6 the second page of each of these and just verify  
7 that it went into the account.

8 MS. MARKEL: That's right.

9 THE WITNESS: Went into --

10 BY MS. MARKEL:

11 Q. That it's a canceled check.

12 A. Oh, okay.

13 Q. Just for the record, you do verify that this  
14 is a canceled check that was deposited?

15 A. Yes, I do.

16 Q. Thank you.

17 MS. MARKEL: So now 4/10/2002.

18 (Exhibit No. 18 was marked for  
19 identification.)

20 THE WITNESS: 4/10/2002.

21 BY MS. MARKEL:

22 Q. Um-hum.

23 A. Sixty-one for Tracy, yes.

24 Q. \$61,000 to Tracy Kamenstein.

25 A. Right. And 4/10/02. This is. Yes.

1 Q. 264 to Sloan --

2 A. Right.

3 Q. -- Kamenstein, correct?

4 A. Correct.

5 Q. And you can verify that those are canceled  
6 checks?

7 A. Right.

8 Q. Thank you.

9 MS. MARKEL: 1/2/2003, that's Exhibit 19.

10 (Exhibit No. 19 was marked for  
11 identification.)

12 THE WITNESS: Tracy 75,000, yes. Sloan, yes.

13 BY MS. MARKEL:

14 Q. So just for the record, you have verified that  
15 on January 2nd, 2003, there's a check that went into  
16 Sloan Kamenstein's account and a check that went into --  
17 sorry -- Sloan Kamenstein's account in the amount of  
18 \$75,000 and Sloan Kamenstein -- Tracy Kamenstein's  
19 account in the amount of \$75,000?

20 A. Correct.

21 Q. Okay.

22 MS. MARKEL: We now have 6/13/03.

23 MS. CHAITMAN: You know, maybe I'm looking at  
24 the wrong documents, but I think they both went  
25 into the same account.

1 MS. MARKEL: They did. They did. I'm sorry.

2 MS. CHAITMAN: Yeah, because you said they  
3 went into different accounts.

4 MS. MARKEL: Let's go back. Let's go back for  
5 a second --

6 MS. CHAITMAN: Yeah.

7 MS. MARKEL: -- to make sure we get clear  
8 testimony on this.

9 BY MS. MARKEL:

10 Q. Let me rephrase the question.

11 For the withdrawals from Sloan Kamenstein's  
12 BLMIS account, you can verify that on January 2nd, 2003,  
13 \$75,000 was withdrawn and deposited into -- into your  
14 bank account; and for Tracy's -- and for Tracy's  
15 account, you can verify that on January 2nd, 2003,  
16 \$75,000 was withdrawn from her BLMIS account and  
17 deposited into your bank account; is that correct?

18 A. Correct.

19 Q. Thank you.

20 MS. CHAITMAN: And just for clarity, the  
21 account number on the second sheet of each of those  
22 is your account number?

23 THE WITNESS: I assume so. I don't remember  
24 the account number. I don't know the account  
25 number. I wouldn't know our accountant number.

1 BY MS. MARKEL:

2 Q. So the stamp on the back that says "Pay to the  
3 order of First National Bank, 1165030176819 Kamenstein,"  
4 is that -- does that stamp correspond to a deposit into  
5 your bank account at Wachovia Bank?

6 A. I mean, I don't know our bank account, you  
7 know, number. I assume that it is, but I don't know our  
8 bank account number, Wachovia Bank.

9 Q. Okay.

10 MS. CHAITMAN: But David, we saw this morning  
11 that some of the checks were deposited into Sloan's  
12 account.

13 THE WITNESS: Right.

14 MS. CHAITMAN: Was this deposited into Sloan's  
15 account or...

16 THE WITNESS: I -- I can't tell because I  
17 don't know the numbers of the accounts, and there's  
18 nothing indicating, you know...

19 MS. CHAITMAN: Okay.

20 THE WITNESS: There's nothing indicating the  
21 name on the account.

22 MRS. KAMENSTEIN: You don't even know Sloan's  
23 account, do you?

24 THE WITNESS: No. It's only numbers and I  
25 don't know the -- there's no name.

1 MS. MARKEL: Would anyone --

2 THE WITNESS: You may have something that...

3 BY MS. MARKEL:

4 Q. Would anyone else other than you have a stamp  
5 that says "For Deposit Only," with a bank account number  
6 "Kamenstein"?

7 A. Except me?

8 Q. Or you or somebody who was in your employ or  
9 one of your family members?

10 A. No.

11 Q. No. Thank you.

12 A. No, not that I can imagine.

13 MS. MARKEL: Can I have this marked as Exhibit  
14 21 -- this is 20. Okay. Let's have these marked  
15 20 and that marked 21.

16 (Exhibit Nos. 20 & 21 were marked for  
17 identification.)

18 BY MS. MARKEL:

19 Q. So Mr. Kamenstein, can you take a look at the  
20 document that's not a check, that's a withdrawal  
21 request. It's the last one in the bunch.

22 A. Oh, okay. This one here.

23 Q. Yeah. It's document marked Exhibit 21.

24 A. Okay.

25 Q. And can you read what you wrote on that

1 document?

2 A. The whole -- the letter?

3 Q. Just -- you know what, just -- yeah, up until  
4 the amounts, just the first paragraph, please.

5 A. "Please take the following amounts from our  
6 accounts. Please wire-transfer to Carol and David  
7 requested funds to Wachovia Bank ABA063000021 for credit  
8 to cap account 9980325822 Carol and David Kamenstein."

9 Q. Okay. You can stop there.

10 A. Okay.

11 Q. And now can you take a look at the next -- at  
12 these two deposits, Exhibit 20 right next to it.

13 A. Right.

14 Q. And these are -- both are on 6/13/2003,  
15 correct?

16 A. Correct.

17 Q. And these are checks from Sloan's and Tracy's  
18 BLMIS accounts?

19 A. Um-hum.

20 Q. \$60,000 to Sloan and \$60,000 to Tracy; is that  
21 correct?

22 A. Correct.

23 Q. And can you look on the second page of both of  
24 those checks, please?

25 A. Okay.

1 Q. And can you read the bank account number?

2 A. Which number might that be?

3 Q. It's the number where it's -- you know, the  
4 stamp -- the for deposit stamp on the back, and there's  
5 a bank account number associated with that.

6 A. I just want to read the right number.

7 Q. That's the number.

8 A. This account?

9 Q. Yes. Yes, sir.

10 A. 9980325822.

11 Q. Okay. And does that -- sorry about that.

12 A. Yeah, they're both the --

13 Q. They're both the same?

14 A. Both the same.

15 Q. So they're both the account number ending in  
16 5822, correct?

17 A. Yes, correct.

18 Q. And based on the previous document that you  
19 read, would you agree that that was an account in the  
20 name of David and Carol Kamenstein?

21 You can look at the document, Exhibit 21,  
22 again right in front of you.

23 A. Yeah. Oh, yes. Yes.

24 Q. Thank you.

25 Okay. You can put those aside.



1 A. Now do I have to mark these off here?

2 Q. Yes, please do. Please do. This is for  
3 6/13/2003 that we just went through.

4 A. Okay.

5 Q. Okay.

6 THE WITNESS: Carol, Sloan doesn't have to sit  
7 here.

8 MRS. KAMENSTEIN: It's okay.

9 THE WITNESS: Okay.

10 MS. MARKEL: They're here for moral support.  
11 I understand.

12 We're going to mark these Exhibit 22.

13 (Exhibit No. 22 was marked for  
14 identification.)

15 BY MS. MARKEL:

16 Q. And you have here \$325,000 from Sloan  
17 Kamenstein's BLMIS account made out to Sloan Kamenstein,  
18 dated 8/11/2003.

19 A. Right.

20 Q. And you have the same -- the check in the same  
21 amount made out to Tracy Kamenstein from Tracy's BLMIS  
22 account; is that correct?

23 A. Correct.

24 Q. And could you verify that both of those checks  
25 are canceled checks and have deposited into account 5822

1 that you previously testified belonged to David and  
2 Carol Kamenstein?

3 A. Yes.

4 Q. Thank you very much.

5 MS. MARKEL: Marking this as Exhibit 23.

6 (Exhibit No. 23 was marked for  
7 identification.)

8 BY MS. MARKEL:

9 Q. Mr. Kamenstein, I've handed you Exhibit 23.  
10 And if you could take a look at Tracy and Sloan's  
11 accounts for 8/18/2003. Please confirm that you see a  
12 check-wire deposit of \$25,000 going into each of their  
13 accounts.

14 A. Yes.

15 Q. Okay.

16 A. Yes, I do.

17 Q. And could you confirm that you see two \$25,000  
18 check-wires on the bank statement that I've handed you  
19 as Exhibit 23?

20 A. Yes.

21 Q. And next to those deposits, do they show Tracy  
22 and Sloan's names?

23 MS. CHAITMAN: Is this -- is that what you're  
24 looking at?

25 MS. MARKEL: Huh-uh.

1 MS. CHAITMAN: No.

2 THE WITNESS: It shows Tracy's name.

3 MS. MARKEL: Um-hum.

4 THE WITNESS: But I don't see Sloan's name.

5 MS. CHAITMAN: Can I just see what you're  
6 looking at? Okay, so it's a different page. You  
7 know what, I think it's a two-page document,  
8 because you gave me one page and you gave David one  
9 page. It's a consecutive Bates number and the  
10 entries are split.

11 MS. MARKEL: You might be right.

12 MS. CHAITMAN: Yeah.

13 MR. GENTILE: What's the Bates numbers at the  
14 bottom?

15 MS. CHAITMAN: Okay. So it ends 765 and 766.

16 MR. GENTILE: Yes, I'm sorry. So you're  
17 right.

18 MS. CHAITMAN: Okay. So I'm going to give him  
19 the two and if you'll give me the two. Okay. And  
20 this is Exhibit what?

21 THE WITNESS: Yes. Sloan's is on the  
22 following page.

23 MS. MARKEL: Okay. Thank you very much.

24 MS. CHAITMAN: Sure. I'm sorry, this was  
25 Exhibit?

1 MS. MARKEL: Exhibit 23.

2 (Exhibit No. 24 was marked for  
3 identification.)

4 BY MS. MARKEL:

5 Q. Mr. Kamenstein, you're going to get what's  
6 been marked as Exhibit 24. These checks should  
7 correspond to the deposit for 1/5/2014. Please take a  
8 look. It should be \$50,000 from Sloan Kamenstein's  
9 BLMIS account and \$50,000 from Tracy Kamenstein's BLMIS  
10 account. Is that correct?

11 A. Correct.

12 Q. And do both of these numbers appear on Exhibit  
13 B that you're marking off?

14 A. Yes.

15 Q. And can you look at the back of those checks,  
16 please, and confirm that those are canceled checks and  
17 were deposited in account ending 5822 that you  
18 previously testified belonged to David and Carol  
19 Kamenstein?

20 A. Yes.

21 Q. Thank you.

22 (Exhibit No. 25 was marked for  
23 identification.)

24 BY MS. MARKEL:

25 Q. Mr. Kamenstein, you've been handed what's been

1 marked Exhibit 25. And that should be two checks, each  
2 for 62,500; one from Sloan Kamenstein's BLMIS account  
3 and one from Tracy Kamenstein's BLMIS account; is that  
4 correct?

5 A. Correct. They're both deposited in account  
6 5822.

7 Q. Thank you very much.

8 And did you verify that those are the numbers  
9 that appear on Exhibit B?

10 A. Yes.

11 Q. Okay.

12 MS. CHAITMAN: Twenty-six.

13 (Discussion held off the record.)

14 THE WITNESS: Just taking a dinner order.

15 Sorry about that. Kitchen's closed tonight.

16 (Exhibit No. 26 was marked for  
17 identification.)

18 BY MS. MARKEL:

19 Q. So I've handed you what's been marked  
20 Exhibit 26. And that reflects withdrawal from Sloan  
21 Kamenstein's BLMIS account of \$176,000 --

22 A. Yes.

23 Q. -- and from Tracy's for \$45,000; is that  
24 correct?

25 A. Yes.

1 Q. And they were both deposited into account  
2 5822; is that correct?

3 A. You know something --

4 MS. CHAITMAN: I don't see that either.

5 THE WITNESS: I'm not so sure about that.

6 MS. MARKEL: Okay.

7 MS. CHAITMAN: Where did you see that?

8 THE WITNESS: That number -- that number, I  
9 don't see those numbers on the back like the  
10 others.

11 MS. MARKEL: You know what? You're right.  
12 These are just stamped "For Deposit Only."

13 MS. CHAITMAN: So how could this have  
14 happened? There's no signature, there's no  
15 account.

16 MRS. KAMENSTEIN: There's no stamp.

17 MS. CHAITMAN: There's no stamp. I'm  
18 surprised that the bank would take it.

19 MS. MARKEL: They're stamped "For Deposit  
20 Only."

21 MS. CHAITMAN: Yeah, but usually when it says  
22 "Deposit Only," it says account number.

23 MS. MARKEL: I agree.

24 MRS. KAMENSTEIN: And the name doesn't say.

25 MS. CHAITMAN: Yeah.

1 BY MS. MARKEL:

2 Q. If you --

3 A. Are these the same ones?

4 Q. Yes. We just went through them.

5 A. Okay.

6 Q. So if you look on the back of the check, they  
7 are just stamped "For Deposit Only." But there's a  
8 computer stamp on the back that shows a Wachovia stamp;  
9 is that correct?

10 A. Would that be this stamp here?

11 Q. Yes, sir.

12 A. Yes.

13 Q. Yes. Thank you.

14 And do the numbers 176,000 and 45,000  
15 respectively, with respect to Sloan's and Tracy's  
16 account, correspond to what's on Exhibit B?

17 A. Yes.

18 Q. Thank you.

19 MS. CHAITMAN: Do you happen to have a Chase  
20 statement showing that these --

21 MS. MARKEL: We probably do.

22 MS. CHAITMAN: Yeah. If we have time, I'd  
23 like to see it, just to tidy this up. I don't want  
24 to interrupt you, but I just want to make sure that  
25 this went into their account.

1 MS. MARKEL: We --

2 MR. GENTILE: We might not have that with us.

3 MS. MARKEL: We probably don't have it with  
4 us, but we would be able -- I mean, it was -- we  
5 served it as part of the Trustee's initial  
6 disclosures.

7 MS. CHAITMAN: Right. Right. Let's just  
8 check it, because it's just strange that there's no  
9 identification of an account.

10 MR. GENTILE: We can get that to you. We're  
11 not going to be able to get that --

12 MS. CHAITMAN: Yeah, no, that's fine. Thank  
13 you.

14 MS. MARKEL: This is going to be marked  
15 Exhibit 27.

16 (Exhibit No. 27 was marked for  
17 identification.)

18 BY MS. MARKEL:

19 Q. Would it be accurate to state that these are  
20 two checks; one -- one for \$25,000 from Sloan's BLMIS  
21 account and one for \$25,000 from Tracy's BLMIS account?

22 A. Correct.

23 Q. And they correspond to Exhibit B?

24 A. Yes, they do.

25 Q. Okay. And can you take a look at the back of



1 those checks. And I think this may clarify the question  
2 we had earlier.

3 What is the bank account that appears?

4 A. 5822 for both.

5 Q. For both.

6 And can you try to make out the stamp on the  
7 back?

8 A. On the back of -- um-hum.

9 Q. Yes. Yes. Yes.

10 A. Yes, um-hum.

11 Q. Now, do you see that stamp says "credited to  
12 the account of the within named payee in absence of  
13 endorsement"?

14 A. Yes.

15 Q. Okay.

16 (Exhibit No. 28 was marked for  
17 identification.)

18 BY MS. MARKEL:

19 Q. You've been handed what's been marked  
20 Exhibit 28. And these are checks, one from Sloan  
21 Kamenstein's BLMIS account in the amount of \$62,000 and  
22 the other one from Tracy Kamenstein's account, also in  
23 the amount of \$62,000; is that correct?

24 A. That is correct.

25 Q. And do those numbers correspond to what's on

1 Exhibit B?

2 A. They do.

3 Q. And can you verify the back of the check,  
4 please?

5 A. Both were deposited into account 5822.

6 Q. Thank you.

7 MS. MARKEL: Exhibit 29.

8 (Exhibit No. 29 was marked for  
9 identification.)

10 BY MS. MARKEL:

11 Q. Can you verify that those checks are one check  
12 to Sloan Kamenstein for \$17,000 from Sloan's BLMIS  
13 account and the other one to Tracy Kamenstein for  
14 \$17,000 from Tracy Kamenstein's BLMIS account?

15 A. Yes.

16 Q. And what does it say on the back of the check?

17 A. It doesn't have that. It says --

18 Q. Can you read that, please?

19 A. Yeah. It has -- it's not marked with an  
20 account number.

21 Q. No, no. Just read what it says on the  
22 endorsement.

23 A. Oh, okay.

24 Q. Um-hum.

25 A. "Pay to the order of First National Bank,

1 1165030176819 Kamenstein."

2 Q. And while you've testified that you don't  
3 remember that you had that specific bank account number,  
4 you've also testified that you do remember having an  
5 account at First National Bank; is that correct?

6 A. First National Bank?

7 Q. First Union National Bank, I think is what it  
8 was called?

9 A. Union. First Union Bank.

10 MS. CHAITMAN: No, it says First National  
11 Bank.

12 MS. MARKEL: First National Bank.

13 MRS. KAMENSTEIN: It's a different bank.

14 THE WITNESS: I don't know about First -- I  
15 don't know. First National I don't remember.  
16 First Union I do remember.

17 MS. MARKEL: Okay.

18 BY MS. MARKEL:

19 Q. And are you aware of anyone who would possess  
20 a stamp that says Paid to the Order of First National  
21 Bank, with a bank account number and the name  
22 Kamenstein --

23 A. No.

24 Q. -- other than yourself?

25 A. No.

1 Q. Okay.

2 MS. MARKEL: Mark these.

3 (Exhibit No. 30 was marked for  
4 identification.)

5 BY MS. MARKEL:

6 Q. Can you confirm for me that you're looking at  
7 a check from Sloan's -- oh, sorry, this is Exhibit 30?

8 A. Thirty.

9 Q. Exhibit No. 30. Can you confirm that you're  
10 looking at a check from Sloan Kamenstein's BLMIS account  
11 in the amount of \$17,000? Just look --

12 A. Yes.

13 Q. And also from Tracy Kamenstein's BLMIS  
14 account --

15 A. Same.

16 Q. -- also for \$17,000 to Tracy?

17 A. Yes. And they were both deposited into  
18 account 5822.

19 Q. Thank you. And are both of those accounts --  
20 both of those numbers appear on Exhibit B accurately?

21 A. Yes.

22 Q. Thank you.

23 MS. CHAITMAN: Just off the record.

24 THE VIDEOGRAPHER: We're on the video record.

25 THE COURT REPORTER: We're still on the video.

1 MS. CHAITMAN: Oh, that's all right. Don't  
2 worry.

3 Which account is 998? Which bank is that?

4 THE WITNESS: Which bank is that? It says --

5 MS. CHAITMAN: Just thought you might  
6 remember.

7 THE WITNESS: It's stamped Wachovia.

8 MS. CHAITMAN: Right.

9 MS. MARKEL: Would this be a good time to take  
10 a break, a five-minute --

11 MS. CHAITMAN: Yeah, let's take a break.

12 MS. MARKEL: Okay.

13 THE WITNESS: It's stamped Wachovia here.

14 THE VIDEOGRAPHER: The time is 3:36. Going  
15 off video record.

16 (A break was taken.)

17 THE VIDEOGRAPHER: We are back on the video  
18 record. The time is 3:46 p.m.

19 BY MS. MARKEL:

20 Q. So we left off, Mr. Kamenstein, we finished  
21 off the 2004 transactions. And we are moving into 2005.

22 If you remember, there was a previous document  
23 where you testified that your account 247 was divided in  
24 half and you opened an account for yourself and your  
25 wife Carol --

1 A. Correct.

2 Q. -- two separate accounts, correct?

3 A. Correct.

4 Q. So starting with the January 2005 transfer,  
5 we're now going to be looking at Tracy and Sloan's  
6 account, as well as your personal accounts --

7 A. Okay.

8 Q. -- that are in front of you.

9 A. Okay.

10 MS. MARKEL: If we could mark this Exhibit 31.

11 (Exhibit No. 31 was marked for  
12 identification.)

13 BY MS. MARKEL:

14 Q. Now, Mr. Kamenstein, what you're looking at  
15 here should be four checks related to the four BLMIS  
16 accounts in your, your wife, Sloan and Tracy's names.  
17 The two checks that were withdrawn from your and your  
18 wife's account should be in the amount of \$97,000, and  
19 for Tracy and Sloan, both in the amount of \$47,000. Is  
20 that accurate? Take your time.

21 A. Yes, and they appear on the statements.

22 Q. On the -- on Exhibit B?

23 A. On Exhibit B.

24 Q. And could you take a look at the back of those  
25 checks?

1 A. They were all deposited into account 5822.

2 Q. Thank you.

3 MS. CHAITMAN: We're talking about  
4 January 4th, 2005, correct?

5 MS. MARKEL: That's correct.

6 MS. CHAITMAN: And we're looking at David's  
7 account, 913, right?

8 MS. MARKEL: We're looking at all four.

9 MS. CHAITMAN: Okay. Oh, I see. I'm sorry.  
10 I do see that. Okay.

11 MS. MARKEL: This is Exhibit 32.

12 (Exhibit No. 32 was marked for  
13 identification.)

14 BY MS. MARKEL:

15 Q. Please take a look at those.

16 And could you confirm that you see a check  
17 from Tracy Kamenstein's account in the amount of  
18 \$52,500, a check from Sloan Kamenstein's account, also  
19 in the amount of \$52,500, and a check from your and  
20 Carol's account in the amount of \$105,000 each?

21 A. Yes.

22 Q. And do those amounts correspond to what is  
23 listed on Exhibit B?

24 A. Yes. And Carol and David's account say they  
25 were -- none of them have a -- have a deposit number;

1 they're all like --

2 Q. Okay. And can you read what that stamp says  
3 on the back of that canceled --

4 A. It says "Paid to the order of the First  
5 National Bank, 1165030176819."

6 Q. And you have previously testified that you  
7 don't believe anybody else other than you or someone in  
8 your employ or your family would have this stamp, though  
9 you do not remember --

10 A. Right.

11 Q. -- having this precise account?

12 A. Right. But it does also say Wachovia on the  
13 back.

14 Q. And you previously testified that you did have  
15 an account at Wachovia, correct?

16 A. Correct.

17 Q. Thank you.

18 MS. MARKEL: Please have this marked as  
19 Exhibit 33.

20 (Exhibit No. 33 was marked for  
21 identification.)

22 BY MS. MARKEL:

23 Q. And looking only -- looking at Exhibit B only  
24 for Tracy's -- only for Tracy's account --

25 A. Um-hum.



1 Q. -- do you see on 3/21/05 a check-wire credited  
2 to Tracy's BLMIS account in the amount of \$777,404 --  
3 \$414?

4 A. Fourteen dollars. Yes.

5 Q. And looking at the bank statement that I  
6 handed to you as Exhibit 33, do you see a check-wire in  
7 that same amount?

8 A. Yes.

9 Q. And can you see in the description whether  
10 that corresponds to a deposit into Tracy Kamenstein's  
11 account?

12 A. The deposit --

13 Q. The description in the bank statement, next  
14 to --

15 A. Yes, it says Tracy Kamenstein.

16 Q. Okay. Thank you.

17 MS. MARKEL: Please have this marked as  
18 Exhibit 34.

19 (Exhibit No. 34 was marked for  
20 identification.)

21 BY MS. MARKEL:

22 Q. Could you confirm for me, please, that what  
23 I've handed to you are withdrawals from Tracy  
24 Kamenstein's account -- BLMIS account, in the amount of  
25 \$25,760 --

1 A. Yes.

2 Q. -- and for Sloan in the amount of \$127,760 --

3 A. Yes.

4 Q. -- and for David and Carol Kamenstein, both in  
5 the amount of 54,740 each?

6 A. Yes.

7 Q. And do those amounts correspond to what is on  
8 Exhibit B?

9 A. Yes. And the back of the checks all say, Pay  
10 to the Order of First National Bank, all the same  
11 number, 1165030176819.

12 Q. And the name stamped below that bank account  
13 number?

14 A. The name stamped below? Kamenstein.

15 Q. Thank you.

16 MS. MARKEL: Going to mark this Exhibit 35.

17 (Exhibit No. 35 was marked for  
18 identification.)

19 BY MS. MARKEL:

20 Q. If you could just look on Sloan Kamenstein's  
21 Exhibit B --

22 A. Okay.

23 Q. -- and on the date 6/2/05, do you see a  
24 check-wire in the amount of \$600,000 --

25 A. Yes.

1 Q. -- into that account?

2 A. Yes.

3 Q. And do you see the same amount that appears on  
4 the bank statement that I've handed to you as  
5 Exhibit 35?

6 A. Yes.

7 Q. And do you see that that -- that that  
8 check-wire on the bank statement corresponds with  
9 Sloan's name?

10 A. Yes.

11 Q. Okay.

12 MS. MARKEL: Thirty-six.

13 (Exhibit No. 36 was marked for  
14 identification.)

15 MRS. KAMENSTEIN: David, if we go --

16 (Discussion held off the record.)

17 BY MS. MARKEL:

18 Q. Okay. So what I've handed to you are four  
19 checks; one, on 6/13/05, from Sloan Kamenstein's BLMIS  
20 account to Sloan in the amount of 225 -- 22,500 -- I  
21 apologize -- and then on 6/15/05 from Tracy's BLMIS  
22 account for 22,500 payable to Tracy Kamenstein, and two  
23 checks each to David and Carol Kamenstein, each in the  
24 amount of 47,500; is that correct?

25 A. Yes.

1 Q. And do all of those amounts correspond to what  
2 is on Exhibit B?

3 A. Yes. And the check to Sloan was deposited in  
4 account 1010038368305, and the others were all deposited  
5 into Kamenstein account 1165030176819.

6 Q. Thank you.

7 MS. MARKEL: Please have this marked as  
8 Exhibit 37.

9 (Exhibit No. 37 was marked for  
10 identification.)

11 BY MS. MARKEL:

12 Q. And just looking at Sloan Kamenstein's account  
13 for that, do you see a check-wire on Exhibit B on  
14 7/8/05 in the amount of \$700,000?

15 A. Yes.

16 Q. Okay. And do you see that amount on the bank  
17 statement --

18 A. Yes.

19 Q. -- that I just handed you?

20 A. Yes.

21 Q. And does that amount on the bank statement  
22 correspond in the description to a deposit for Sloan?

23 A. Yes.

24 Q. Okay. Thank you.

25 MS. MARKEL: We're going to be entering that

1 as Exhibit 38.

2 (Exhibit No. 38 was marked for  
3 identification.)

4 THE WITNESS: Okay.

5 BY MS. MARKEL:

6 Q. Okay. So would you confirm that there is a  
7 withdrawal from Sloan Kamenstein's BLMIS account in the  
8 amount of 26,700 payable to Sloan Kamenstein?

9 A. Yes.

10 Q. And for Tracy the amount is also \$26,700?

11 A. Right.

12 Q. And there are two checks withdrawn from Carol  
13 and David's BLMIS account, each in the amount of  
14 \$56,800?

15 A. Correct, and all are deposited into account  
16 5822.

17 Q. Okay. And they all appear on Exhibit B --

18 A. Yes.

19 Q. -- accurately.

20 Okay. Thank you.

21 MS. MARKEL: Have these marked as Exhibit 39.

22 (Exhibit No. 39 was marked for  
23 identification.)

24 BY MS. MARKEL:

25 Q. Okay. So would it be accurate to state that

1 there's a check on 9/1/2005 from Tracy Kamenstein's  
2 BLMIS account to Tracy in the amount of \$67,600?

3 A. Yes.

4 Q. And on the same date from Sloan Kamenstein's  
5 BLMIS account to Sloan in the amount of \$136,000?

6 A. Yes.

7 Q. And for both David and Carol, there's a check  
8 in the amount of \$75,000 each on that date?

9 A. Yes. And they're all deposited into account  
10 1165030176819.

11 Q. Thank you.

12 MS. MARKEL: Could we have this marked as  
13 Exhibit 40.

14 (Exhibit No. 40 was marked for  
15 identification.)

16 BY MS. MARKEL:

17 Q. Could you take a look at Tracy's BLMIS account  
18 and confirm that this is a check deposit into Tracy's  
19 BLMIS account of \$20,600 on 9/30/2005?

20 A. Yes.

21 Q. And the document that you're looking -- and  
22 that --

23 A. Corresponds to Exhibit -- what? -- B?

24 Q. -- corresponds to Exhibit B.

25 A. Yeah.

1 Q. Thank you.

2 MS. MARKEL: We're going to mark this

3 Exhibit 41.

4 (Exhibit No. 41 was marked for  
5 identification.)

6 THE WITNESS: Okay.

7 BY MS. MARKEL:

8 Q. And can you confirm that there is a check in  
9 the amount of \$37,500 dated October 21st, 2005 withdrawn  
10 from Tracy Kamenstein's BLMIS account payable to Tracy  
11 Kamenstein?

12 A. Yes.

13 Q. And on the same date, a check from Sloan  
14 Kamenstein's BLMIS account in the amount of \$92,500  
15 payable to Sloan?

16 A. Yes.

17 Q. And also there are two checks, each for  
18 \$77,500, withdrawn from each of David and Carol's BLMIS  
19 accounts and payable to David and Carol?

20 A. Yes.

21 Q. Okay.

22 A. And they're all deposited, it says, "Credited  
23 to the account of the living named payee absence of  
24 endorsement guaranteed Wachovia Bank National  
25 Association, South County Branch.

1 Q. Thank you.

2 A. They all say that.

3 MS. MARKEL: Forty-two.

4 (Exhibit No. 42 was marked for  
5 identification.)

6 BY MS. MARKEL:

7 Q. So just looking at Sloan Kamenstein's account  
8 on this one, can you confirm that this is a check from  
9 Sloan Kamenstein's BLMIS account for \$200,000 --

10 A. Yes.

11 Q. -- payable to Sloan Kamenstein?

12 A. Yes, and it appears on Exhibit B.

13 Q. Okay. Thank you.

14 MS. MARKEL: Let's have this marked as 43.

15 (Exhibit No. 43 was marked for  
16 identification.)

17 THE WITNESS: Okay.

18 BY MS. MARKEL:

19 Q. And can you confirm that these are checks,  
20 one -- all made out on 11/25/2005. For Tracy there's a  
21 check for \$20,500 from her BLMIS account payable to  
22 Tracy?

23 A. Yes.

24 Q. The same amount on the same date for Sloan,  
25 \$20,500?



1 A. Yes.

2 Q. And for Carol and David, there is a check for  
3 \$42,000 to each on that same date, 11/25/2005?

4 A. Yes, and the backs are all stamped For Deposit  
5 Only. That's all it says.

6 Q. And is there a bank computer stamp?

7 A. It says Wachovia.

8 Q. Wachovia, okay.

9 Thank you.

10 MS. MARKEL: This is 44.

11 (Exhibit No. 44 was marked for  
12 identification.)

13 BY MS. MARKEL:

14 Q. Okay. This is just for Sloan's account. This  
15 should be a check on 12/9/2005 payable to Sloan  
16 Kamenstein in the amount of \$350,000.

17 A. Yes.

18 Q. Okay. And does that amount correspond with  
19 what's on Exhibit B?

20 A. Yes.

21 Q. Okay. Thank you.

22 MS. MARKEL: Exhibit 45.

23 (Exhibit No. 45 was marked for  
24 identification.)

25 THE WITNESS: All righty.

1 BY MS. MARKEL:

2 Q. So for first -- for January 4th, 2006, would  
3 you confirm that there is a check from Tracy  
4 Kamenstein's BLMIS account payable to Tracy in the  
5 amount of \$36,800?

6 A. Yes.

7 Q. There's also a check from -- from Sloan  
8 Kamenstein's account on the same date in the amount of  
9 \$58,500?

10 A. Yes.

11 Q. And there are checks payable to Carol and  
12 David on the same date, each in the amount of \$48,500  
13 from their BLMIS accounts?

14 A. Yes, and they were all deposited into account  
15 5822.

16 Q. Thank you.

17 MS. MARKEL: This is going to be marked  
18 Exhibit 46.

19 (Exhibit No. 46 was marked for  
20 identification.)

21 MS. CHAITMAN: Can I have one of the blown-up  
22 Exhibit Bs?

23 MR. GENTILE: There's a couple of extra copies  
24 in there, but all the accounts are in there.

25 MS. CHAITMAN: Okay. Thank you.

1 THE WITNESS: Okay.

2 BY MS. MARKEL:

3 Q. Okay. And would you confirm that there is a  
4 check from Tracy Kamenstein's BLMIS account on  
5 3/2/2006 in the amount of \$61,200?

6 A. Yes.

7 Q. And one for Sloan from Sloan's BLMIS account  
8 on 3/2/06 in the amount of \$55,700?

9 A. Yes.

10 Q. And one to each of Carol and David on  
11 3/6/06 for \$80,800?

12 A. Yes, and they were all deposited into account  
13 5822.

14 Q. Thank you.

15 MS. MARKEL: Have this marked 47.

16 (Exhibit No. 47 was marked for  
17 identification.)

18 THE WITNESS: Okay.

19 MS. MARKEL: Okay.

20 THE WITNESS: Yes.

21 BY MS. MARKEL:

22 Q. And can you confirm that a check on  
23 4/4/2006 from Tracy Kamenstein's BLMIS account in the  
24 amount of \$250,000 payable to Tracy?

25 A. Yes.

1 Q. And on that same date, a check to Sloan  
2 Kamenstein in the same amount, \$250,000, from Sloan's  
3 BLMIS account?

4 A. Yes.

5 Q. And two checks for David and Carol, each for  
6 \$250,000 on the same date, payable from their respective  
7 BLMIS accounts?

8 A. Yes. And they were all deposited 5822.

9 Q. Thank you.

10 MS. MARKEL: Let's have this marked 48.

11 (Exhibit No. 48 was marked for  
12 identification.)

13 THE WITNESS: All righty.

14 BY MS. MARKEL:

15 Q. Okay. So can you confirm please that the  
16 checks on 5/3/2006, in the name -- sorry -- made payable  
17 to Tracy Kamenstein for \$84,000 from Tracy's BLMIS  
18 account?

19 A. Right.

20 Q. One payable to Sloan Kamenstein for 149,000?

21 A. Right.

22 Q. And checks payable to David and Carol for  
23 \$129,000 each from their respective BLMIS accounts?

24 A. Yes, and all deposited in the same account,  
25 5822.

1 Q. Thank you.

2 MS. MARKEL: Let's have this marked as Exhibit

3 49.

4 (Exhibit No. 49 was marked for  
5 identification.)

6 BY MS. MARKEL:

7 Q. So only looking at Sloan Kamenstein for this  
8 one.

9 A. Okay.

10 Q. Can you confirm that there's a check payable  
11 to Sloan Kamenstein from Sloan Kamenstein's BLMIS  
12 account in the amount of 155,000 on 6/13/2006?

13 A. Yes.

14 Q. And that corresponds to Exhibit B?

15 A. Yes.

16 Q. Okay.

17 A. And that was deposited in account  
18 2000028122845.

19 Q. Okay.

20 MS. MARKEL: And can we mark this Exhibit 50,  
21 please.

22 (Exhibit No. 50 was marked for  
23 identification.)

24 BY MS. MARKEL:

25 Q. And sir, only looking at Tracy Kamenstein's

1 account, can you confirm a deposit on 6/15/2006 in the  
2 amount of \$87,747?

3 A. Yes.

4 Q. And does that appear on Exhibit B?

5 A. Yes.

6 Q. Thank you.

7 MS. MARKEL: Let's have this marked  
8 Exhibit 51.

9 (Exhibit No. 51 was marked for  
10 identification.)

11 THE WITNESS: All right.

12 BY MS. MARKEL:

13 Q. Okay.

14 A. Yes.

15 Q. And can you confirm a check on 7/5/2006 from  
16 Tracy Kamenstein's BLMIS account for \$45,000?

17 A. Yes.

18 Q. And one on the same date from Sloan  
19 Kamenstein's BLMIS account payable to Sloan in the  
20 amount of \$71,000?

21 A. Yes.

22 Q. And one check for each of you and Carol on the  
23 same date in the amount of \$92,000 payable from your  
24 respective BLMIS accounts?

25 A. Yes. And all were deposited into the account

1 5822.

2 Q. Thank you.

3 MS. MARKEL: Going to have this marked as  
4 Exhibit 52.

5 (Exhibit No. 52 was marked for  
6 identification.)

7 BY MS. MARKEL:

8 Q. Mr. Kamenstein, looking only now at Sloan's  
9 BLMIS account. Can you confirm, please, on 8/3/2006 a  
10 check-wire into the BLMIS account of \$530,000.

11 A. 8/3/2006, check-wire. Yes.

12 Q. Okay. And the bank account statement that  
13 I've handed you corresponds to Exhibit B?

14 A. Yes.

15 Q. And on the bank account statement next to the  
16 entry of \$530,000 in the description, do you see a  
17 reference to Sloan Kamenstein?

18 A. Yes.

19 Q. Okay. Thank you.

20 MS. MARKEL: Have this marked 53.

21 (Exhibit No. 53 was marked for  
22 identification.)

23 THE WITNESS: Okay.

24 BY MS. MARKEL:

25 Q. Okay. And can you confirm a check on

1 8/8/2006 from Tracy Kamenstein's BLMIS account in the  
2 amount of \$17,000?

3 A. Yes.

4 Q. And on the same date from Sloan Kamenstein's  
5 BLMIS account payable to Sloan in the amount of \$79,000?

6 A. Yes.

7 Q. And on the same date, checks from David and  
8 Carol's respective BLMIS accounts to David and Carol in  
9 the amount of \$39,500?

10 A. Yes. And Tracy's, Carol's and David's checks  
11 were deposited in 5822.

12 Q. Um-hum.

13 A. Sloan's check was deposited in 1010038368305.

14 Q. Okay. Thank you.

15 MS. MARKEL: This is going to be marked 54.

16 (Exhibit No. 54 was marked for  
17 identification.)

18 THE WITNESS: Okay.

19 BY MS. MARKEL:

20 Q. Okay. And can you confirm a check from Tracy  
21 Kamenstein's BLMIS account on 9/7/2006 in the amount of  
22 \$44,000?

23 A. Yes.

24 Q. And on the same date, a check from Sloan  
25 Kamenstein's BLMIS account payable to Sloan in the



1 amount of \$67,000?

2 A. Yes.

3 Q. And on the same date, two checks from their  
4 respective BLMIS accounts to David and Carol Kamenstein  
5 in the amount of \$98,000 each?

6 A. Yes, and they were all deposited in account  
7 5822.

8 Q. Thank you.

9 (Exhibit No. 55 was marked for  
10 identification.)

11 THE WITNESS: All righty.

12 BY MS. MARKEL:

13 Q. Okay. So could you confirm, please, a  
14 10/4/2006 check from Tracy Kamenstein's BLMIS account  
15 payable to Tracy in the amount of \$13,000?

16 A. Yes.

17 Q. And on that same date a check from Sloan  
18 Kamenstein's BLMIS account payable to Sloan for \$55,000?

19 A. Yes.

20 Q. And on that same date, two checks payable from  
21 David and Carol's respective BLMIS accounts in the  
22 amount of \$50,000?

23 A. Yes.

24 Q. And those amounts correspond to Exhibit B,  
25 correct?

1 A. They do, and David's and Carol's and Tracy's  
2 checks were all deposited in account 5822, and Sloan's  
3 check was deposited in account 1010038368305.

4 Q. Thank you.

5 MS. MARKEL: Have this marked as Exhibit 56.

6 (Exhibit No. 56 was marked for  
7 identification.)

8 BY MS. MARKEL:

9 Q. Mr. Kamenstein, looking only now at Sloan  
10 Kamenstein's account, can you confirm on 10/5/2006 a  
11 check in the amount of \$350,000 payable from Sloan  
12 Kamenstein's BLMIS account to Sloan?

13 A. Yes.

14 Q. And that amount appears on Exhibit B?

15 A. Yes, and it was deposited into account  
16 1010038368305.

17 Q. Thank you.

18 MS. MARKEL: Exhibit 57.

19 (Exhibit No. 57 was marked for  
20 identification.)

21 THE WITNESS: Okay.

22 BY MS. MARKEL:

23 Q. Okay. Can you confirm a check on  
24 11/7/2006 payable from Tracy Kamenstein's BLMIS account  
25 to Tracy in the amount of \$39,400?

1 A. Yes.

2 Q. And on the same date, a check payable from  
3 Sloan Kamenstein's BLMIS account to Sloan in the amount  
4 of \$26,200?

5 A. Yes.

6 Q. And on the same date two checks payable from  
7 David and Carol's BLMIS account respectively to David  
8 and Carol, each in the amount of \$77,200?

9 A. Yes, and they were all marked No Deposit  
10 Only -- For Deposit Only. I'm sorry.

11 Q. And can you confirm the computer stamp, the  
12 name of the bank account?

13 A. Wachovia.

14 Q. Thank you.

15 MS. MARKEL: It's Exhibit 58.

16 (Exhibit No. 58 was marked for  
17 identification.)

18 THE WITNESS: Okay.

19 BY MS. MARKEL:

20 Q. Okay. So can you confirm a check on  
21 12/6/06 payable from Tracy Kamenstein's BLMIS account to  
22 Tracy in the amount of \$21,300?

23 A. Yes.

24 Q. And on that same date, a check payable from  
25 Sloan Kamenstein's BLMIS account to Sloan in the amount

1 of \$264,000?

2 A. Yes.

3 Q. And on that same date a check payable from  
4 David and Carol's respective BLMIS accounts, each in the  
5 amount of \$49,200 to each of David and Carol?

6 A. Yes, and they were all deposited in account  
7 5822.

8 Q. Okay. And is -- and do you confirm that  
9 number corresponds to Exhibit B?

10 A. Corresponds to Exhibit B.

11 Q. Okay. For the rest of these transfers, you've  
12 already admitted the accuracy of the deposits and  
13 withdrawals in your amended interrogatory responses.

14 A. Okay.

15 Q. So based on what we've discussed and  
16 everything that you've gone through, do you have any  
17 reason to dispute the accuracy of Exhibit B?

18 A. Well, not on what we've checked.

19 MS. MARKEL: Okay. Okay, that's it for today.

20 THE WITNESS: That's it?

21 MS. MARKEL: That's it.

22 THE WITNESS: Okay. Well, thank you.

23 THE VIDEOGRAPHER: The time is 4:41. We're  
24 going off video record.

25 (The reading and signing of this deposition

1 was not waived.)

2 (At 4:41 p.m. the deposition was concluded.)

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1 CERTIFICATE OF OATH

2 THE STATE OF FLORIDA

3 COUNTY OF PALM BEACH

4

5

6 I, the undersigned authority, certify that  
7 DAVID KAMENSTEIN personally appeared before me and was  
8 duly sworn.

9

10 Dated this 22nd day of February, 2017.

11

12

13

14



15

16 Shirley D. King, RPR, FPR  
17 Notary Public - State of Florida  
18 My Commission Expires: 7/26/2017  
19 My Commission No.: FF 019917

20 Job #1522945-D

21

22

23

24

25

1 C E R T I F I C A T E

2 THE STATE OF FLORIDA

3 COUNTY OF PALM BEACH

4

5 I, Shirley D. King, Registered Professional  
6 Reporter and Notary Public in and for the State of  
7 Florida at Large, do hereby certify that I was  
8 authorized to and did report said deposition in  
9 stenotype; and that the foregoing pages are a true  
10 and correct transcription of my shorthand notes of  
11 said deposition.

12 I further certify that said deposition was  
13 taken at the time and place hereinabove set forth and  
14 that the taking of said deposition was commenced and  
15 completed as hereinabove set out.

16 I further certify that I am not attorney or  
17 counsel of any of the parties, nor am I a relative or  
18 employee of any attorney or counsel of party connected  
19 with the action, nor am I financially interested in the  
20 action.

21 The foregoing certification of this transcript  
22 does not apply to any reproduction of the same by any  
23 means unless under the direct control and/or direction  
24 of the certifying reporter.

25 Dated this 6th day of March, 2017.

21   
Shirley D. King, RPR, FPR

22

23 Job #1522945-D

24

25

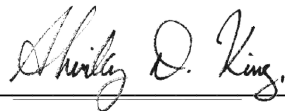
1 DATE: March 7, 2017  
2 TO: DAVID KAMENSTEIN Job #1522945-D  
3 c/o HELEN DAVIS CHAITMAN, ESQUIRE  
4 45 Broadway  
5 New York, New York 10006  
6  
7 IN RE: Picard vs. David Kamenstein  
8

9 Please take notice that on Wednesday, the 22nd  
10 of February, 2017, you gave your deposition in the  
11 above-referred matter. At that time, you did not waive  
12 signature. It is now necessary that you sign your  
13 deposition.

14 Please call our office at the below-listed  
15 number to schedule an appointment between the hours of  
16 9:00 a.m. and 4:30 p.m., Monday through Friday, at the  
17 US LEGAL office located nearest you.

18 If you do not read and sign the deposition  
19 within a reasonable time, the original, which has  
20 already been forwarded to the ordering attorney, may be  
21 filed with the Clerk of the Court. If you wish to waive  
22 your signature, sign your name in the blank at the  
23 bottom of this letter and return it to us.

24 Very truly yours,

25 

Shirley D. King, RPR, FPR  
US LEGAL SUPPORT  
444 West Railroad Avenue, Suite 300  
West Palm Beach, Florida 33401

I do hereby waive my signature.

\_\_\_\_\_  
DAVID KAMENSTEIN

I do hereby waive my signature:  
file copy



1 C E R T I F I C A T E

2 - - -

3 THE STATE OF FLORIDA

4 COUNTY OF PALM BEACH

5 I hereby certify that I have read the  
6 foregoing deposition by me given, and that the  
7 statements contained herein are true and correct to the  
8 best of my knowledge and belief, with the exception of  
9 any corrections or notations made on the errata sheet,  
10 if one was executed.

11

12 Dated this \_\_\_\_ day of \_\_\_\_\_,  
13 2017.

14

15

16

17

18 \_\_\_\_\_

19 DAVID KAMENSTEIN

20 Job #1522945-D

21

22

23

24

25

1 E R R A T A S H E E T

2 IN RE: PICARD VS. DAVID KAMENSTEIN

3 CR: SHIRLEY D. KING, RPR, FPR

4 DEPOSITION OF: DAVID KAMENSTEIN

5 TAKEN: 2/22/17 JOB NO.: 1522945-D

6

7 DO NOT WRITE ON TRANSCRIPT - ENTER CHANGES HERE

8 PAGE # LINE # CHANGE REASON

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19 Please forward the original signed errata sheet to this  
20 office so that copies may be distributed to all parties.

21 Under penalty of perjury, I declare that I have read my  
22 deposition and that it is true and correct subject to  
any changes in form or substance entered here.

23 DATE: \_\_\_\_\_

24 SIGNATURE OF DEPONENT: \_\_\_\_\_

25

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